

REMARKS

Claims 1-43 are pending. Claims 1, 2, 4-16 and 30-43 are under examination. New claims 44-55 have been added. Support for the new claims can be found throughout the specification and the claims as filed. In particular, support for new claims 44-54 can be found, for example, in original claims 2-4, 6 and 8-16. Support for new claim 55 can be found, for example, in original claim 37. Accordingly, these new claims do not raise an issue of new matter and entry thereof is respectfully requested.

Applicants wish to bring to the Examiner's attention co-pending application serial No. 09/724,898.

The rejection of claims 1, 2, 4-16 and 30-43 under 35 U.S.C. § 102(a) and (e) as allegedly anticipated by Friend et al., U.S. Patent No. 6,218,122, is respectfully traversed. Applicants respectfully submit that the claimed methods are novel over Friend et al.

Applicants submit that Friend et al. does not teach the claimed methods. In particular, Friend et al. does not teach the claimed methods of classifying a population by drug responsiveness or categorizing drug responsiveness in a population. Friend et al. describes unidimensional analysis, in contrast to the claimed methods using multidimensional analysis. In corroboration of Applicants' position that Friend et al. does not teach the claimed methods, attached is a Rule 132 Declaration (Exhibit 1) signed by the inventors, Dr. Hood and Dr. Siegel. In the Declaration, Drs. Hood and Siegel attest that the claimed methods are distinct from Friend et al. The Declaration discusses the differences between the claimed methods and the methods described by Friend et al., and these differences are exemplified in Exhibits A and B attached to the Declaration. It is respectfully submitted that the Declaration by Drs. Hood and Siegel corroborate Applicants' position that Friend et al. does not teach the claimed methods.

With regard to leukocyte specimens, Applicants respectfully disagree with the assertion in the Office Action on page 4 that leukocyte specimen measurements are disclosed in Friend et al. as white blood cell profiling, referencing column 12, lines 31-41. The only mention in Friend et al. of white blood cells or leukocytes is at column 12, lines

37-38. Friend et al. describes using "white blood cell count" as one of various "clinical effects" to which "perturbation response profiles" can be calibrated. However, there is no teaching in Friend et al. of using leukocytes as a specimen to determine the expression levels of molecules, as recited in claims 9, 16, 37 and 55.

Applicants submit that Friend et al. does not teach Applicants' claimed methods, as discussed above and corroborated by the attached Declaration signed by Drs. Hood and Siegel (Exhibit 1). Absent such a teaching, Friend et al. cannot anticipate the claims. Accordingly, Applicants respectfully request that this rejection be withdrawn.

In light of the amendments and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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